85TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 2632

TECHNICAL AMENDMENTS ACT OF 1958

AUGUST 14, 1958.—Ordered to be printed

Mr. MILLS, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H. R. 8381]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8381) to amend the Internal Revenue Code of 1954 to correct unintended benefits and hardships and to make technical amendments, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 32, 70, 80, 82, 90, 96, 98, 99, 100, 103, 106, 107, 129, 130, 131, 211, 221, and 225.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 7, 8, 9, 10, 11½, 12, 13, 14, 15, 16, 17, 18, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 31, 34, 35, 36, 40, 41, 42, 43, 44, 45, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 62, 63, 64, 65, 66, 67, 68, 69, 72, 73, 74, 75, 76, 77, 78, 79, 84, 86, 87, 92, 93, 101, 102, 108, 116, 119, 120, 122, 123, 125, 126, 137, 138, 139, 140, 142, 144, 145, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 168, 173, 177, 183, 184, 186, 189, 198, 199, 200, 202, 204, 205, 207, 208, 209, 210, 214, 215, 217, 218, and agree to the same.

Amendment numbered 6:

That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment as follows:

Strike out the matter proposed to be stricken out by the Senate amendment, omit the matter proposed to be inserted by the Senate amendment, and on page 4, line 1, of the House engrossed bill, strike out "3" and insert *2*; and the Senate agree to the same.

Amendment numbered 11:

That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with the following amendments:

Restore the matter proposed to be stricken out by the Senate amendment;

On page 5, line 5, of the House engrossed bill, strike out "4" and insert *3*;

On page 5, line 14, of the House engrossed bill, strike out "beginning after December 31, 1956" and insert *ending after September 30, 1958, but only with respect to amounts received as a statutory subsistence allowance for any day after September 30, 1958.*

And the Senate agree to the same.

Amendment numbered 19:

That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment as follows:

On page 9, of the Senate engrossed amendments, strike out the last three lines and all that follows down through line 13 on page 10; and the Senate agree to the same.

Amendment numbered 23:

That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *11*; and the Senate agree to the same.

Amendment numbered 33:

That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *15*; and the Senate agree to the same.

Amendment numbered 37:

That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *16*; and the Senate agree to the same.

Amendment numbered 38:

That the House recede from its disagreement to the amendment of the Senate numbered 38, and agree to the same with an amendment as follows:

On page 18, line 12, of the Senate engrossed amendments, strike out "18" and insert *17*; and the Senate agree to the same.

Amendment numbered 39:

That the House recede from its disagreement to the amendment of the Senate numbered 39, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *18*; and the Senate agree to the same.

Amendment numbered 46:

That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment as follows:

On page 22, line 2, of the Senate engrossed amendments, strike out "20" and insert *19*; and the Senate agree to the same.

Amendment numbered 47:

That the House recede from its disagreement to the amendment of the Senate numbered 47, and agree to the same with the following amendments:

On page 23, line 2, of the Senate engrossed amendments, strike out "21" and insert *20*;

Page 27, line 4, of the Senate engrossed amendments, strike out "of the corporation";

Page 27, line 5, of the Senate engrossed amendments, strike out "such assets" and insert *the assets of the corporation.*

And the Senate agree to the same.

Amendment numbered 48:

That the House recede from its disagreement to the amendment of the Senate numbered 48, and agree to the same with an amendment as follows:

Restore the matter proposed to be stricken by the Senate amendment; and on page 19, line 17, of the House engrossed bill, strike out "17" and insert *21*; and the Senate agree to the same.

Amendment numbered 61:

That the House recede from its disagreement to the amendment of the Senate numbered 61, and agree to the same with an amendment as follows:

On page 45, line 2, of the Senate engrossed amendments strike out "practice." and all that follows down through the last line on such page and insert *practice.*"; and the Senate agree to the same.

Amendment numbered 71:

That the House recede from its disagreement to the amendment of the Senate numbered 71, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *30*; and the Senate agree to the same.

Amendment numbered 81:

That the House recede from its disagreement to the amendment of the Senate numbered 81, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *31*; and the Senate agree to the same.

Amendment numbered 83:

That the House recede from its disagreement to the amendment of the Senate numbered 83, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *32*; and the Senate agree to the same.

Amendment numbered 85:

That the House recede from its disagreement to the amendment of the Senate numbered 85, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *33*; and the Senate agree to the same.

Amendment numbered 88:

That the House recede from its disagreement to the amendment of the Senate numbered 88, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *34*; and the Senate agree to the same.

Amendment numbered 89:

That the House recede from its disagreement to the amendment of the Senate numbered 89, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *35*; and the Senate agree to the same.

Amendment numbered 91:

That the House recede from its disagreement to the amendment of the Senate numbered 91, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *36*; and the Senate agree to the same.

Amendment numbered 94:

That the House recede from its disagreement to the amendment of the Senate numbered 94, and agree to the same with an amendment as follows:

On page 56, line 11, of the Senate engrossed amendments strike out "41" and insert *37*; and the Senate agree to the same.

Amendment numbered 95:

That the House recede from its disagreement to the amendment of the Senate numbered 95, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *38*; and the Senate agree to the same.

Amendment numbered 97:

That the House recede from its disagreement to the amendment of the Senate numbered 97, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *39*; and the Senate agree to the same.

Amendment numbered 104:

That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *40*; and the Senate agree to the same.

Amendment numbered 105:

That the House recede from its disagreement to the amendment of the Senate numbered 105, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *41*; and the Senate agree to the same.

Amendment numbered 109:

That the House recede from its disagreement to the amendment of the Senate numbered 109, and agree to the same with the following amendments:

Restore the matter proposed to be stricken out by the Senate amendment;

On page 48, line 6, of the House engrossed bill, strike out "37" and insert *42*;

On page 48, line 15, of the House engrossed bill, strike out "1956" and insert *1957*;

On page 49, line 14, of the House engrossed bill, strike out "1957" and insert *1958*;

On page 50, line 5, of the House engrossed bill, strike out "1956" and insert *1957*.

And the Senate agree to the same.

Amendment numbered 110:

That the House recede from its disagreement to the amendment of the Senate numbered 110, and agree to the same with an amendment as follows:

On page 93, line 9, of the Senate engrossed amendments strike out "48" and insert *43*; and the Senate agree to the same.

Amendment numbered 111:

That the House recede from its disagreement to the amendment of the Senate numbered 111, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *44*; and the Senate agree to the same.

Amendment numbered 112:

That the House recede from its disagreement to the amendment of the Senate numbered 112, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *45*; and the Senate agree to the same.

Amendment numbered 113:

That the House recede from its disagreement to the amendment of the Senate numbered 113, and agree to the same with an amendment as follows:

On page 96, line 7, of the Senate engrossed amendments, strike out "51" and insert *46*; and the Senate agree to the same.

Amendment numbered 114:

That the House recede from its disagreement to the amendment of the Senate numbered 114, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *47*; and the Senate agree to the same.

Amendment numbered 115:

That the House recede from its disagreement to the amendment of the Senate numbered 115, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *48*; and the Senate agree to the same.

Amendment numbered 117:

That the House recede from its disagreement to the amendment of the Senate numbered 117, and agree to the same with an amendment as follows:

On page 98, line 12, of the Senate engrossed amendments, strike out "54" and insert *49*; and the Senate agree to the same.

Amendment numbered 118:

That the House recede from its disagreement to the amendment of the Senate numbered 118, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *50*; and the Senate agree to the same.

Amendment numbered 121:

That the House recede from its disagreement to the amendment of the Senate numbered 121, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *51*; and the Senate agree to the same.

Amendment numbered 124:

That the House recede from its disagreement to the amendment of the Senate numbered 124, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *52*; and the Senate agree to the same.

Amendment numbered 127:

That the House recede from its disagreement to the amendment of the Senate numbered 127, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *53*; and the Senate agree to the same.

Amendment numbered 128:

That the House recede from its disagreement to the amendment of the Senate numbered 128, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *54*; and the Senate agree to the same.

Amendment numbered 132:

That the House recede from its disagreement to the amendment of the Senate numbered 132, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *55*; and the Senate agree to the same.

Amendment numbered 133:

That the House recede from its disagreement to the amendment of the Senate numbered 133, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *56*; and the Senate agree to the same.

Amendment numbered 134:

That the House recede from its disagreement to the amendment of the Senate numbered 134, and agree to the same with an amendment as follows:

On page 101, fifth line from the bottom of the page, of the Senate engrossed amendments, strike out "62" and insert *57*; and the Senate agree to the same.

Amendment numbered 135:

That the House recede from its disagreement to the amendment of the Senate numbered 135, and agree to the same with the following amendments:

On page 105, line 1, of the Senate engrossed amendments, strike out "63" and insert *58*;

On page 105 of the Senate engrossed amendments, strike out the last line and all that follows down through line 2 on page 106 and insert *the period in which such injuries were sustained by the taxpayer.*"

And the Senate agree to the same.

Amendment numbered 136:

That the House recede from its disagreement to the amendment of the Senate numbered 136, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *59*; and the Senate agree to the same.

Amendment numbered 141:

That the House recede from its disagreement to the amendment of the Senate numbered 141, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *60*; and the Senate agree to the same.

Amendment numbered 143:

That the House recede from its disagreement to the amendment of the Senate numbered 143, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *61*; and the Senate agree to the same.

Amendment numbered 146:

That the House recede from its disagreement to the amendment of the Senate numbered 146, and agree to the same with an amendment as follows:

On page 109, fifth line from the bottom of the page, of the Senate engrossed amendments, strike out "67" and insert *62*; and the Senate agree to the same.

Amendment numbered 147:

That the House recede from its disagreement to the amendment of the Senate numbered 147, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *63. REVOCATION OF*; and the Senate agree to the same.

Amendment numbered 163:

That the House recede from its disagreement to the amendment of the Senate numbered 163, and agree to the same with an amendment as follows:

On page 113, line 6, of the Senate engrossed amendments, strike out "69" and insert *64*; and the Senate agree to the same.

Amendment numbered 164:

That the House recede from its disagreement to the amendment of the Senate numbered 164, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *65*; and the Senate agree to the same.

Amendment numbered 165:

That the House recede from its disagreement to the amendment of the Senate numbered 165, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *66*; and the Senate agree to the same.

Amendment numbered 166:

That the House recede from its disagreement to the amendment of the Senate numbered 166, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *67*; and the Senate agree to the same.

Amendment numbered 167:

That the House recede from its disagreement to the amendment of the Senate numbered 167, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *68*; and the Senate agree to the same.

Amendment numbered 169:

That the House recede from its disagreement to the amendment of the Senate numbered 169, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *69*; and the Senate agree to the same.

Amendment numbered 170:

That the House recede from its disagreement to the amendment of the Senate numbered 170, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *70*; and the Senate agree to the same.

Amendment numbered 171:

That the House recede from its disagreement to the amendment of the Senate numbered 171, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *71*; and the Senate agree to the same.

Amendment numbered 172:

That the House recede from its disagreement to the amendment of the Senate numbered 172, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *72*; and the Senate agree to the same.

Amendment numbered 174:

That the House recede from its disagreement to the amendment of the Senate numbered 174, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *73*; and the Senate agree to the same.

Amendment numbered 175:

That the House recede from its disagreement to the amendment of the Senate numbered 175, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *74*; and the Senate agree to the same.

Amendment numbered 176:

That the House recede from its disagreement to the amendment of the Senate numbered 176, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *75*; and the Senate agree to the same.

Amendment numbered 178:

That the House recede from its disagreement to the amendment of the Senate numbered 178, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *76*; and the Senate agree to the same.

Amendment numbered 179:

That the House recede from its disagreement to the amendment of the Senate numbered 179, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *77*; and the Senate agree to the same.

Amendment numbered 180:

That the House recede from its disagreement to the amendment of the Senate numbered 180, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *78*; and the Senate agree to the same.

Amendment numbered 181:

That the House recede from its disagreement to the amendment of of the Senate numbered 181, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *79*; and the Senate agree to the same.

Amendment numbered 182:

That the House recede from its disagreement to the amendment of the Senate numbered 182, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *80*; and the Senate agree to the same.

Amendment numbered 185:

That the House recede from its disagreement to the amendment of the Senate numbered 185, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *81*; and the Senate agree to the same.

Amendment numbered 187:

That the House recede from its disagreement to the amendment of the Senate numbered 187, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *82*; and the Senate agree to the same.

Amendment numbered 188:

That the House recede from its disagreement to the amendment of the Senate numbered 188, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *83*; and the Senate agree to the same.

Amendment numbered 190:

That the House recede from its disagreement to the amendment of the Senate numbered 190, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *84*; and the Senate agree to the same.

Amendment numbered 191:

That the House recede from its disagreement to the amendment of the Senate numbered 191, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *83*; and the Senate agree to the same.

Amendment numbered 192:

That the House recede from its disagreement to the amendment of the Senate numbered 192, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *85*; and the Senate agree to the same.

Amendment numbered 193:

That the House recede from its disagreement to the amendment of the Senate numbered 193, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *86*; and the Senate agree to the same.

Amendment numbered 194:

That the House recede from its disagreement to the amendment of the Senate numbered 194, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *87*; and the Senate agree to the same.

Amendment numbered 195:

That the House recede from its disagreement to the amendment of the Senate numbered 195, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *88*; and the Senate agree to the same.

Amendment numbered 196:

That the House recede from its disagreement to the amendment of the Senate numbered 196, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *89*; and the Senate agree to the same.

Amendment numbered 197:

That the House recede from its disagreement to the amendment of the Senate numbered 197, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *90*; and the Senate agree to the same.

Amendment numbered 201:

That the House recede from its disagreement to the amendment of the Senate numbered 201, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *91*; and the Senate agree to the same.

Amendment numbered 203:

That the House recede from its disagreement to the amendment of the Senate numbered 203, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *90*; and the Senate agree to the same.

Amendment numbered 206:

That the House recede from its disagreement to the amendment of the Senate numbered 206, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *92*; and the Senate agree to the same.

Amendment numbered 212:

That the House recede from its disagreement to the amendment of the Senate numbered 212, and agree to the same with an amendment as follows:

On page 139, line 2, of the Senate engrossed amendments, strike out "99" and insert *93*; and the Senate agree to the same.

Amendment numbered 213:

That the House recede from its disagreement to the amendment of the Senate numbered 213, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *94*; and the Senate agree to the same.

Amendment numbered 216:

That the House recede from its disagreement to the amendment of the Senate numbered 216, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *95*; and the Senate agree to the same.

Amendment numbered 219:

That the House recede from its disagreement to the amendment of the Senate numbered 219, and agree to the same with an amendment as follows:

On page 142, line 12, of the Senate engrossed amendments, strike out "102" and insert *96*; and the Senate agree to the same.

Amendment numbered 220:

That the House recede from its disagreement to the amendment of the Senate numbered 220, and agree to the same with an amendment as follows:

On page 143, line 10, of the Senate engrossed amendments, strike out "103" and insert *97*; and the Senate agree to the same.

Amendment numbered 222:

That the House recede from its disagreement to the amendment of the Senate numbered 222, and agree to the same with an amendment as follows:

On page 145, line 2, of the Senate engrossed amendments, strike out "105" and insert *98*; and the Senate agree to the same.

Amendment numbered 223:

That the House recede from its disagreement to the amendment of the Senate numbered 223, and agree to the same with an amendment as follows:

On page 145, the sixth line from the bottom of the page, of the Senate engrossed amendments, strike out "106" and insert *99*; and the Senate agree to the same.

Amendment numbered 224:

That the House recede from its disagreement to the amendment of the Senate numbered 224, and agree to the same with an amendment as follows:

On page 147, line 4, of the Senate engrossed amendments, strike out "107" and insert *100*; and the Senate agree to the same.

Amendment numbered 226:

That the House recede from its disagreement to the amendment of the Senate numbered 226, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 101. DEFINITION OF EARNINGS AND PROFITS IN THE CASE OF REGULATED INVESTMENT COMPANIES.

(a) AMENDMENT OF SECTION 852 (a).—Section 852 (a) (relating to requirements applicable to regulated investment companies) is amended by striking out "this subchapter" and inserting in lieu thereof "this subchapter (other than subsection (c) of this section)".

(b) AMENDMENT OF SECTION 852 (c).—Section 852 (c) (relating to definition of earnings and profits in the case of regulated investment companies) is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, the term 'regulated investment company' includes a domestic corporation which is a regulated investment company determined without regard to the requirements of subsection (a)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years of regulated investment companies beginning on or after March 1, 1958.

And the Senate agree to the same.

Amendment numbered 227:

That the House recede from its disagreement to the amendment of the Senate numbered 227, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 102. APPLICATION OF ESTATE AND GIFT TAXES IN POSSESSIONS.

(a) ESTATE TAX.—Subchapter C of chapter 11 (relating to miscellaneous estate tax provisions) is amended by adding at the end thereof the following new section:

"SEC. 2208. CERTAIN RESIDENTS OF POSSESSIONS CONSIDERED CITIZENS OF THE UNITED STATES.

"A decedent who was a citizen of the United States and a resident of a possession thereof at the time of his death shall, for purposes of the tax imposed by this chapter, be considered a 'citizen' of the United States within the meaning of that term wherever used in this title unless he acquired his United States citizenship solely by reason of (1) his being a citizen of such possession of the United States, or (2) his birth or residence within such possession of the United States."

(b) GIFT TAX.—Section 2501 (relating to imposition of gift tax) is amended by redesignating subsection (b) to be subsection (c) and by adding after subsection (a) the following new subsection:

"(b) CERTAIN RESIDENTS OF POSSESSIONS CONSIDERED CITIZENS OF THE UNITED STATES.—A donor who is a citizen of the United States and a resident of a possession thereof shall, for purposes of the tax imposed by this chapter, be considered a 'citizen' of the United States within the meaning of that term wherever used in this title unless he acquired his United States citizenship solely by reason of (1) his being a citizen of such possession of the United States, or (2) his birth or residence within such possession of the United States."

(c) RELATED AMENDMENTS.—

(1) Section 2011 (a) (relating to the credit for estate, inheritance, legacy, or succession taxes) is amended by striking out "or any possession of the United States,".

(2) Section 2014 (relating to credit for foreign death taxes) is amended by adding at the end thereof the following new subsection:

"(f) POSSESSION OF UNITED STATES DEEMED A FOREIGN COUNTRY.—For purposes of the credits authorized by this section, each possession of the United States shall be deemed to be a foreign country."

(3) Section 2053 (d) (1) (relating to the deduction for estate, inheritance, legacy, or succession taxes paid in respect of a transfer for public, charitable, or religious uses) is amended by striking out "or any possession of the United States,".

(4) The table of sections for subchapter C of chapter 11 is amended by adding at the end thereof the following:

"Sec. 2208. Certain residents of possessions considered citizens of the United States."

(d) EFFECTIVE DATE.—The amendments made by this section (other than by subsection (b)) shall apply to the estates of decedents dying after the date of the enactment of this Act. The amendment made by subsection (b) shall apply to gifts made after the date of the enactment of this Act.

And the Senate agree to the same.

Amendment numbered 228:

That the House recede from its disagreement to the amendment of the Senate numbered 228, and agree to the same with the following amendments:

Page 153, line 2, of the Senate engrossed amendments, strike out "111" and insert *103*;

Page 153, line 5, of the Senate engrossed amendments, after "(a)", insert *CREDIT UNDER 1939 CODE.—*;

Page 153, line 10, of the Senate engrossed amendments, strike out "copyright," and insert *copyrights,*;

Page 153, line 16, of the Senate engrossed amendments, strike out "of such royalty" and insert *to such royalty*;

Page 153, fourth line from the bottom of the page, of the Senate engrossed amendments, after "(b)", insert *CREDIT UNDER 1954 CODE.—*;

Page 153, last line, of the Senate engrossed amendments, strike out "the" the first place it appears;

Page 154, at the end of line 11, of the Senate engrossed amendments, strike out "taxable" and insert *gross*;

Page 154, line 13, of the Senate engrossed amendments, after "(c)", insert *EFFECTIVE DATE.—*;

Page 154, at the end of line 14, of the Senate engrossed amendments, strike out "and" and insert *or*;

Page 154, beginning in line 19, of the Senate engrossed amendments, strike out ", the date of enactment of the Internal Revenue Code of 1954"; and in line 20, after the period, insert *No interest shall be allowed or paid on any overpayment resulting from the amendments made by subsections (a) and (b) of this section.*

And the Senate agree to the same.

Amendment numbered 229:

That the House recede from its disagreement to the amendment of the Senate numbered 229, and agree to the same with the following amendments:

Page 155 of the Senate engrossed amendments, in the matter following line 11, strike out "(3)" and insert *(5)*;

Page 155, line 15, of the Senate engrossed amendments, strike out "at the end thereof" and insert *after section 1243 (as added by section 57 of this Act)*;

Page 155 of the Senate engrossed amendments strike out lines 18, 19, and 20 and insert the following:

"*(a) GENERAL RULE.—In the case of an individual, a loss on section 1244 stock issued to such individual or to a partnership which would (but for this section) be*;

Page 156, line 24, of the Senate engrossed amendments, strike out "to the taxpayer";

Page 157, line 5, of the Senate engrossed amendments, strike out "taxpayer sustains the loss on such stock" and insert *loss on such stock is sustained*;

Page 161, lines 9 and 10, of the Senate engrossed amendments, strike out "partnership, trust," and insert *trust*;

Page 161, line 17, of the Senate engrossed amendments, strike out "3" and insert *203*;

Page 161 of the Senate engrossed amendments, strike out the last three lines and insert the following:

(a) ALLOWANCE.—Paragraph (1), and so much of paragraph (2) as precedes the third sentence thereof, of section 172 (b) of the Internal Revenue Code of 1954 (relating to net operating loss deduction) are amended to read as follows:

Page 162, line 18, of the Senate engrossed amendments, beginning with "carried", strike out all through "year)." in line 23 and insert *carried.*;

Page 163, line 3, of the Senate engrossed amendments, beginning with "carried.", strike out all through line 18 and insert *carried.*";

Page 163, line 22, of the Senate engrossed amendments, after "(h)", insert *(as added by section 64 of this Act)*;

Page 164, lines 3, 4, and 5, of the Senate engrossed amendments, strike out "the amount of such loss which may be carried to such year, computed without regard to this subsection," and insert *such net operating loss*;

Page 164, line 7, of the Senate engrossed amendments, after "year.", insert the following: *In determining the amount carried to any other taxable year, the reduction for the third taxable year preceding the loss year shall not exceed the portion of the net operating loss which is carried to the third preceding taxable year.*;

Page 164 of the Senate engrossed amendments, beginning with line 11, strike out all through line 2 on page 168.

Page 168, line 3, of the Senate engrossed amendments, strike out "5" and insert *204*;

Page 168, line 8, of the Senate engrossed amendments, strike out "at the end thereof" and insert *after section 178 (as added by section 15 of this Act)*;

Page 172, line 10, of the Senate engrossed amendments, strike out "6" and insert *205*;

Page 173, line 1, of the Senate engrossed amendments, strike out "7" and insert *206*.

And the Senate agree to the same.

W. D. MILLS,
N. J. GREGORY,
AIME J. FORAND,
DANIEL A. REED,
RICHARD M. SIMPSON,
Managers on the Part of the House.

HARRY F. BYRD,
ROBT. S. KERR,
J. ALLEN FREAR, Jr.,
EDWARD MARTIN,
JOHN J. WILLIAMS,
Managers on the Part of the Senate.

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8381) to amend the Internal Revenue Code of 1954 to correct unintended benefits and hardships and to make technical amendments, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

Many of the Senate amendments made technical, clerical, clarifying, or conforming changes in the bill as passed the House. With respect to these amendments (1) the House either recedes or recedes with amendments which are technical, clerical, clarifying, or conforming in nature, or (2) the Senate recedes in order to conform to other action agreed upon by the committee of conference.

The House bill (sec. 1 (c)) contained general effective date provisions. In addition, various sections of the bill contained special effective date provisions. The Senate amendments generally changed these special effective dates. In general, the action agreed upon by the conferees conformed to the effective date provisions contained in the Senate amendments.

In addition to the amendments of the nature described in the preceding paragraphs, the Senate amendments made a number of substantive changes. These changes, and the action agreed upon by the conferees, are explained below.

Retirement income credit

Amendment No. 6: The House bill amended section 37 of the 1954 Code (relating to the retirement income credit) to remove certain differences between the application of such section to married individuals residing in community-property States and those residing in common-law States. In general, the House bill provided for the removal of these differences by making the rules applicable with respect to common-law States apply with respect to community-property States.

The Senate amendment in general provided for the removal of these differences by making the rules applicable with respect to community-property States apply with respect to common-law States.

The House recedes with an amendment eliminating the provision from the bill, so that no change is made in existing law.

Dealers in tax-exempt securities

Amendments Nos. 7 and 9: Section 75 of the 1954 Code provides for the amortization of the premium on short-term municipal bonds by dealers in tax-exempt securities. Excepted from the provision are bonds disposed of within 30 days after the date of acquisition by the dealer, and bonds with the earliest maturity or call date more than 5 years from the date acquired by the dealer.

The House bill amended section 75 (b) (1) of the 1954 Code by deleting the exception to amortization in the case of bonds with earliest

maturity or call date more than 5 years after acquisition, and by providing that the exception for bonds which are disposed of within 30 days after acquisition shall apply only where the amount realized on the sale of the bond (or the fair market value of the bond at the time of its disposition in some other manner) is greater than the adjusted basis of the bond, computed without regard to any amortization of premium in the hands of the dealer under section 75.

The Senate amendments restore the exception to amortization for bonds maturing more than 5 years after acquisition, but make the availability of such exception subject to the requirement that the bond be disposed of at a gain (just as in the case of a bond disposed of within 30 days). The Senate amendments also make a technical change relating to the time for making the adjustment under section 75 in the case of bonds maturing more than 5 years after acquisition which are not disposed of at a gain.

The House recedes.

Statutory subsistence allowance received by police

Amendment No. 11: This amendment struck out section 4 of the House bill which provided for the repeal of section 120 of the 1954 Code effective for taxable years beginning after December 31, 1956.

The House recedes with an amendment. Under the conference agreement the House provision repealing section 120 is restored, but the effective date of the repeal is applicable to taxable years ending after September 30, 1958. However, the repeal is applicable only with respect to amounts received as a statutory subsistence allowance for any day after September 30, 1958.

Definition of dependent

Amendment No. 12: Under the first sentence of section 152 (b)(3) of the 1954 Code, the term "dependent" does not include any individual who is not a citizen of the United States unless (in effect) such individual is a resident of the United States, Canada, Mexico, the Canal Zone, or the Republic of Panama. This provision does not apply to a child of the taxpayer born to him (or legally adopted by him) in the Philippine Islands before January 1, 1956, if the child is a resident of the Republic of the Philippines, and if the taxpayer was a member of the Armed Forces of the United States at the time the child was born to him or legally adopted by him.

Under the Senate amendment, the first sentence of section 152 (b)(3) of the 1954 Code also would not apply with respect to a child of the taxpayer legally adopted by him if, for the taxable year of the taxpayer, the child has as his principal place of abode the home of the taxpayer and is a member of the taxpayer's household, and if the taxpayer is a citizen of the United States.

The House recedes.

Improper payments to officials of foreign countries

Amendment No. 15: The Senate amendment adds a new section to the House bill which would deny a deduction under section 162 of the 1954 Code (relating to deduction for trade or business expenses) for any expenses paid or incurred if the payment is made, directly or indirectly, to an official or employee of a foreign country, and if the making of the payment would be unlawful under the laws of the United States if such laws were applicable to such payment and to

such official or employee. The Senate amendment applies only with respect to expenses paid or incurred after the date of the enactment of the bill. The Senate amendment specifically provides that no inference is to be drawn from the enactment of this provision, where payments on or before the date of enactment are involved.

The House recedes.

Facilities for primary processing of uranium ore or uranium concentrate

Amendment No. 18: The Senate amendment added a new section to the House bill which would amend section 168 of the 1954 Code (relating to amortization deduction for emergency facilities) to permit certifications with respect to facilities to be used to provide primary processing for uranium ore or uranium concentrate under a program of the Atomic Energy Commission for the development of new sources of uranium ore or uranium concentrate. Under the Senate amendment, no such certificate shall be made with respect to any facility unless existing facilities for processing the uranium ore or uranium concentrate which will be processed by such facility are unsuitable because of their location. The Senate amendment also contained transitional provisions relating to the effect of applications for certificates filed before the date of the enactment of the bill, or at any time within 3 months after such date of enactment.

The House recedes.

Unlimited deduction for charitable contributions by individuals

Amendment No. 19: The Senate amendment adds a new section to the House bill which would amend section 170 (b) (1) (C) of the 1954 Code (relating to unlimited charitable deduction for certain individuals) to provide that instead of taking into account the amount of income tax paid *during* any year in determining whether for that year the individual's charitable contributions plus income tax exceed 90 percent of his taxable income, the individual can take into account the amount of income tax paid *in respect of* such year (so long as such amount is not included in any other year).

Subsection (c) of the section added by the Senate amendment also adds two new sentences at the end of section 170 (b) (1) (C), as amended by subsection (a) of the new section. Although over a long period of years a taxpayer may make large charitable contributions, he may fail to qualify for the unlimited charitable deduction because his contributions, plus taxes, did not in one year reach the required 90 percent of taxable income. This amendment would have permitted the taxpayer to combine any 2 years in the 10 years preceding the taxable year to determine whether the sum of the contributions and income taxes for such 2 years exceed 90 percent of the sum of the taxable incomes for such 2 years thereby permitting him to qualify for both of such two taxable years.

The House recedes, with an amendment striking subsection (c) of the new section.

Remainders to related persons in the case of certain charitable trusts

Senate amendment No. 20: The House bill amended section 170 (b) (1) of the 1954 Code to deny the charitable contribution deduction in the case of a trust, where the income is irrevocably payable for a charitable purpose for a period 2 years or more, and the grantor's wife, children, or grandchildren, or other closely related members of

the grantor's family, have a reversionary interest of more than 5 percent in the corpus or income of the trust.

The Senate amendment deleted this amendment to section 170 (b) (1).

The House recedes.

Net operating loss deduction

Amendment No. 31: The House bill amended section 172 of the 1954 Code with respect to the effect of net operating losses carried to or through taxable years beginning in 1953 and ending in 1954 or beginning in 1954 and ending before August 17, 1954.

The Senate amendment provides that if refund or credit of any overpayment resulting from the application of these amendments to section 172 of the 1954 Code is prevented on the date of the enactment of the bill or within 6 months after such date, by the operation of any law or rule of law (other than those relating to closing agreements and compromises), the refund or credit may be made or allowed if claim therefor is filed within 6 months after such date. No interest is to be paid or allowed on any overpayment resulting from the application of these amendments to section 172.

The House recedes.

Assessments levied by soil or water conservation or drainage districts for certain depreciable property

Amendment No. 32: The Senate amendment added a new section to the House bill which would amend section 175 of the 1954 Code (relating to soil and water conservation expenditures) to provide a deduction with respect to any assessment, levied by a soil or water conservation or drainage district after December 31, 1957, which, while otherwise qualified under section 175, is denied deduction under existing law solely by reason of the fact that the expenditures defrayed by the assessments were made for structures, appliances, and facilities of a character subject to the allowance for depreciation provided in section 167. The deduction is available to the owner of the land in respect of which the assessment is levied. The Senate amendment contained rules for ascertaining the amount of the deduction, rules restricting the eligibility for the deduction and its amount, and rules requiring appropriate basis adjustments.

The conferees on the part of the House believe that there is much to be said for providing a deduction for assessments used by a water conservation or drainage district to acquire depreciable assets. However, the new section which would be provided by the Senate amendment would be complicated in operation for taxpayers and the Internal Revenue Service alike and raised problems of equity among taxpayers variously situated. For those reasons it was believed desirable to withhold this amendment at the present time in order that the problem might be given further study.

The Senate recedes.

Improvements on leased property

Amendments Nos. 34 and 35: The House bill provided that in determining the amount allowable to a lessee for depreciation or amortization in respect of improvements made on the leased property or in respect of the cost of acquiring the lease, the term of the lease was to be treated as including any period for which the lease may be

renewed, extended, or continued pursuant to an option exercisable by the lessee, unless the lessee establishes that (as of the close of the taxable year) it is more probable that the lease will not be renewed, extended, or continued for such period than that the lease will be so renewed, extended, or continued. The House bill also provided that if a lessee and lessor are related persons at any time during the taxable year, the lease was to be treated as including a period of not less duration than the remaining useful life of the improvement.

Senate Amendment No. 34 provides that the new statutory rule with respect to renewal periods is not to apply if the unexpired lease period (determined without regard to any unexercised option to renew) accounts for 60 percent or more of the useful life of the improvement. In the case of costs of acquiring a lease, the new provision is not to apply if 75 percent or more of this cost is attributable to the unexpired lease period. Under Senate Amendment No. 35, however, where the 60-percent or 75-percent exceptions apply, the renewal period still will be taken into account if the lease has been renewed or there is "reasonable certainty" that the option to renew the lease will be exercised. Senate Amendment No. 35 also includes among the persons defined as related persons for purposes of the new provision lessors and lessees who are corporations and members of an affiliated group which is eligible for filing a consolidated return (as defined in section 1504 of the 1954 Code).

The House recedes.

Increase in limitation on medical deduction for a taxpayer or his spouse who has attained age 65 and is disabled

Amendment No. 38: Section 213 (c) of the 1954 Code (relating to maximum limitation on the deduction for medical, dental, etc., expenses) provides that the maximum deduction under section 213 for any taxable year shall be $10,000 in the case of a joint return or return of a head of a household or surviving spouse, and $5,000 in all other cases.

Senate Amendment No. 38 adds a new subsection (g) to section 213 to provide an increased maximum limitation where the taxpayer or his spouse has attained age 65 and is disabled. The new ceiling is to be $15,000 if the taxpayer has attained age 65 before the close of the taxable year and is disabled, or if his spouse has attained age 65 before the close of the taxable year, is disabled, and does not make a separate return for the taxable year. The new ceiling is to be $30,000 if both the taxpayer and his spouse have attained age 65 before the close of the taxable year and are disabled, but only if they file a joint return for the taxable year. Amounts paid during any taxable year for medical care of a qualified taxpayer (or of a qualified spouse), to the extent that they exceed $15,000, will not be taken into account. Amounts paid for the medical care of individuals who do not qualify under the new provisions will still be subject to the maximum limitations contained in section 213 (c) of the 1954 Code. The Senate amendment provides that an individual is to be considered disabled for purposes of the new section 213 (g) (1) if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration.

The House recedes with a clerical amendment.

Deductions by corporations for dividends received

Amendments Nos. 40, 41, and 42: The House bill added a new subsection (c) to section 246 of the 1954 Code under which the allowance of deductions for intercorporate dividends-received is denied where the dividend is on a share of stock sold or otherwise disposed of in any case in which the taxpayer has held such share for 10 days or less. Special rules are included in the bill in the case of certain preference dividends and for determination of holding periods.

The Senate amendments change the 10-day period referred to above to a 15-day period.

The House recedes.

Gain or loss on sales or exchanges in connection with certain liquidations

Amendment No. 46: Section 337 of the 1954 Code provides that if a corporation adopts a plan of complete liquidation, no gain or loss shall be recognized to the corporation from sales of property by the corporation after the adoption of the plan, if the corporation is completely liquidated within 12 months. Under section 337 (c) (2) (A), section 337 is made inapplicable to sales or exchanges by a corporation where the corporation is owned 80 percent by another corporation and where the basis of the property of the liquidating corporation in the hands of the parent corporation is determined under section 334 (b) (1) of the 1954 Code.

The Senate amendment adds a new section to the House bill which would add a new subsection (d) to section 337. Under this amendment, if a corporation adopts a plan of complete liquidation on or after January 1, 1958, and if section 337 (a) does not apply to sales or exchanges of property by such corporation solely by reason of the application of section 337 (c) (2) (A), then for the first taxable year of any shareholder (other than the parent corporation) in which he receives a distribution in complete liquidation——

(1) The amount realized by such shareholder on the distribution shall be increased by his proportionate share of the amount by which the tax imposed by subtitle A of the 1954 Code would have been reduced if section 337 (c) (2) (A) had not applied, and

(2) For purposes of the 1954 Code, such shareholder shall be deemed to have paid (on the last day prescribed by law for the payment of the tax imposed by subtitle A of such Code on such shareholder for such taxable year) an amount of tax equal to the amount of the increase described in paragraph (1).

The House recedes with a clerical amendment.

Collapsible corporations

Amendment No. 47: Section 341 of the 1954 Code (relating to collapsible corporations) provides that under specified circumstances gain from the sale or exchange of stock of a collapsible corporation, from a distribution in partial or complete liquidation of a collapsible corporation, or from a distribution made by a collapsible corporation in an amount in excess of the basis of the stock, is to be treated as gain from the sale or exchange of property which is not a capital asset.

The Senate amendment adds a new section to the House bill which would add a new subsection (e) to section 341 to provide four exceptions under which gain will not be treated, by reason of section 341 (a), as ordinary income. The four exceptions to the existing rules

applicable to collapsible corporations provided by this amendment relate to (1) sales or exchanges of stock (other than sales or exchanges to the issuing corporation or to certain related persons); (2) certain distributions in complete liquidation taxed as capital gains under section 331; (3) certain complete liquidations for which nonrecognition treatment is provided under section 333; and (4) certain sales or exchanges of property under section 337 (relating to nonrecognition of gain or loss on sales or exchanges of corporate property in connection with certain complete liquidations). In order for a transaction to qualify for any of these 4 exceptions, the net unrealized appreciation on the "ordinary income" assets of the corporation (referred to in the amendment as "subsection (e) assets") must not exceed 15 percent of corporate net worth. The "ordinary income" assets of a corporation are those assets which, if sold at a gain, would result in the imposition of an ordinary income tax on the corporation. Under specified circumstances, certain transactions will qualify only if the 15 percent test is met after taking into account the net unrealized appreciation on assets of the corporation which, in the hands of certain shareholders, would be "ordinary income" assets, and the transactions with respect to certain other corporations in which certain shareholders of the corporation in question have held stock.

It is the understanding of the conferees that, in applying the definition of subsection (e) assets, stock or securities held by a corporation (hereinafter referred to as "Corporation A") shall not be considered subsection (e) assets merely because a more than 20 percent shareholder is a dealer in stock or securities, if such shareholder holds his Corporation A stock in his investment account (pursuant to section 1236 (a)). Therefore, the stock or securities held by Corporation A shall not be subsection (e) assets by reason of the more than 20 percent shareholder test unless, in the hands of such shareholder, the stock or securities held by Corporation A would, if held by such shareholder, constitute property gain from the sale of which would be considered ordinary income solely by reason of the application of section 341 as modified by this amendment.

The House recedes with clerical amendments.

Property received in certain corporate organizations and reorganizations

Amendment No. 48: The House bill contains a provision amending section 358 of the 1954 Code (relating to tax-free exchanges) to specifically provide for a downward adjustment of the basis of property received in the exchange where a loss to the taxpayer was recognized on such exchange.

The Senate amendment eliminated this provision from the House bill.

The Senate recedes.

Taxation of employee annuities

Amendment No. 52: Under section 403 of the 1954 Code an annuity purchased by an employer for an employee, under a qualified nondiscriminatory type of plan, is taxable at the time the employee receives the annuity payment rather than in the year the payments are made for the annuity by the employer. However, where the employer is a tax-exempt educational, charitable, or religious organization, described in section 501 (c) (3) of the 1954 Code, this defer-

ment of tax in the case of an employee is available with respect to annuities whether or not they are paid under a qualified nondiscriminatory type of plan.

The House bill inserts a new subsection (b) in section 403 to provide that in the case of annuity contracts purchased for employees by organizations described in section 501 (c) (3), if the annuity contract does not come under a qualified nondiscriminatory plan and if the employee's rights to the contract are nonforfeitable, the amount contributed by the employer is to be excluded from the gross income of the employee in the taxable year of the contribution only to the extent that the contribution does not exceed an "exclusion allowance" for the year. The "exclusion allowance" is 20 percent of the employee's compensation for the last full year of service, multiplied by the employee's years of service, and reduced by the amounts contributed by the employer for annuity contracts for the employee which were excluded from the gross income of the employee in prior taxable years. The House bill also amended subsection (c) of section 403 (as redesignated by the bill) for the purpose of providing that if the rights of an employee of an organization exempt from tax under section 501 or 521 were forfeitable at the time the employer made the contributions, the annuity was to be taxable at the time the employee's rights changed from forfeitable to nonforfeitable.

The Senate amendment makes no change in the new subsection (b) of section 403 of the 1954 Code, as inserted by the House bill. However, the amendment (see the proposed section 403 (d)) changed the rule with respect to forfeitable rights under annuity contracts purchased by exempt organizations to clarify the tax treatment of these rights and to make the new rule apply only to the extent that the value of an annuity which becomes nonforfeitable after December 31, 1957, is attributable to amounts contributed by the employer after that date. This provision is effective for taxable years beginning after December 31, 1957. In addition, the Senate amendment extends to annuity contracts purchased by certain exempt organizations three tax benefits provided with respect to qualified pension plans:

1. An exclusion from gross income of certain death benefits attributable to employer contributions.
2. An exclusion from gross estate, for purposes of the Federal estate tax, with respect to employer contributions.
3. An exclusion from the gift tax base with respect to an employer's contribution in the case of the exercise (or nonexercise) by an employee of an election as to survivor benefits.

These additional benefits will be available only if the employer organization is described in section 501 (c) (3) of the 1954 Code and is exempt from tax, and is a religious organization (other than a trust), an educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on, or is an organization which receives a substantial part of its support from a governmental unit or from the general public.

For a general explanation of the effect of the Senate amendment, see page 35 of the report of the Committee on Finance on the bill (Rept. No. 1983, 85th Cong.). For a technical explanation of the amendment, see page 147 of the report.

The House recedes.

Prepaid income from newspaper and periodical subscriptions

Amendment No. 61: The Senate amendment added a new section 455 to the 1954 Code, relating to prepaid subscription income. Under this new section, prepaid subscription income is to be included in the income of the publisher in the year in which he is under a liability to furnish or deliver a newspaper, magazine, or other periodical. The deferral is to be available on an elective basis. The election may be made separately with respect to each trade or business, but cannot be made for one where the cash receipts and disbursements method of accounting is used. The election applies to all prepaid subscription income arising in the trade or business, except that the taxpayer need not defer income beyond the current year where the liability to furnish the newspaper, magazine, or other periodical does not extend beyond 12 months. An election once made is effective for all subsequent years unless the Secretary or his delegate consents to a revocation.

The new section 455 (which would be added by the Senate amendment) also contains a subsection (e) which provides that taxpayers who have in prior years reported prepaid subscription income under an established and consistent method or practice of accounting for such income may continue to report such income in accordance with that method or practice.

The Senate amendment also would have extended similar treatment to amounts received as dues or fees from members of a nonprofit corporation whose principal activity consists of providing services to such members.

The House recedes with an amendment deleting the Senate amendments relating to dues and fees contained in subsection (f) of section 455 as contained in the Senate bill.

Adjustments required by changes in method of accounting

Amendment No. 64: Section 481 of the 1954 Code provides statutory rules with respect to adjustments required because of changes in methods of accounting. This section now requires the adjustments to be made in full to the extent that they are attributable to 1954 Code years, but no adjustments are required in respect of *pre-1954* Code years. Under the House bill adjustments in respect of *pre-1954* Code years are required in the case of a change in the method of accounting initiated by the taxpayer. This proposed change in law is retained by the Senate amendment.

The House bill provided that the net amount of any adjustment resulting in an increase in taxable income of more than $3,000 and attributable to *pre-1954* Code years was to be taken into account ratably in the year of change and the 9 succeeding taxable years, but only if the taxpayer was engaged in the same trade or business for 9 years before 1954.

The Senate amendment provides that the full 10-year spread for pre-1954 Code year adjustments is to be available whether or not the taxpayer has been in the same trade or business for 9 years before 1954. The Senate amendment also provides that where the year of change was a *1954-Code* year ending before January 1, 1958, the taxpayer may elect to begin the 10-year spread with his first taxable year which *begins* after December 31, 1957. The Senate amendment also contains rules relating to cases where one or more of the taxable

years to which the adjustments may be spread are years with respect to which the assessment of a deficiency is barred.

The House recedes.

Amendment No. 66: The House bill would have made the 10-year spread rule (discussed above in connection with amendment No. 64) the exclusive rule for pre-1954 positive adjustments of more than $3,000. The Senate amendment also makes available, on an elective basis, the alternative of spreading such adjustments under the method provided by paragraph (1) or (2) of section 481 (b) of the 1954 Code.

The House recedes.

Amendment No. 69: The Senate amendment contains a transitional rule permitting a taxpayer who, for a *1954-Code* year *ending before* the date of the enactment of the bill, computed his taxable income under a method of accounting different from his method for the preceding taxable year to recompute his taxable income, beginning with the year of change, under the method used for such preceding taxable year. Such an election must be made within *6 months after the date* of the enactment of the bill. It will not be available where the taxpayer and the Secretary of the Treasury or his delegate have agreed to the terms and conditions for making a change in method of accounting applied for by the taxpayer, nor will it be available to a taxpayer who was required by the Secretary of the Treasury or his delegate, before the date of the enactment of the bill, to change his method of accounting. The House recedes.

For a general explanation of amendments Nos. 64, 66, and 69, see page 44 of the report of the Committee on Finance on the bill. For a technical explanation, see page 159 of such report.

Exemption of certain organizations of the type described in section 501 (c) (14)

Amendment No. 70: This amendment would have amended section 501 (c) (14) of the Internal Revenue Code of 1954. Section 501 (c) (14) provides for exemption from income tax of certain nonprofit corporations and associations organized before September 1, 1951, and operated for the purposes of providing reserve funds for, and insurance of, shares or deposits in domestic building and loan associations or certain banks. This amendment would have extended the exemption to qualifying corporations and associations which were organized on or after September 1, 1951, and before September 1, 1957. The Senate recedes.

Denial of exemption to organizations engaged in prohibited transactions

Amendments Nos. 74 and 75: Section 503 (c) (1) of the 1954 Code (relating to prohibited transactions in the case of certain exempt organizations) provides that if any exempt organization subject to section 503 lends any part of its corpus or income to a person described in section 503 (c) without the receipt of adequate security and a reasonable rate of interest, it has engaged in a prohibited transaction (and, by reason of sec. 503 (a), it loses its exempt status).

The House bill amends section 503 of the 1954 Code by adding at the end thereof a new subsection (h) which provides that certain transactions entered into by an employees' trust described in section 401 (a) of the 1954 Code are not to be considered as loans made without the receipt of adequate security, but only if certain specified conditions

are met. Paragraph (4) of the new subsection (h) contained the condition that, in the case of an obligation acquired after November 8, 1956, such obligation be issued pursuant to an indenture or other written agreement which provides that, if the issuer mortgages (or otherwise subjects to lien) substantially all of its property after the issuance of such obligation, such obligation will be secured by a preference no less adequate than that afforded by such mortgage (or lien). Senate amendment No. 74 struck out this condition.

Senate amendment No. 75 adds a new subsection (i) to section 503 of the 1954 Code. The provisions of the new subsection (i) are substantially the same as the provisions which would have been added to the 1954 Code by H. R. 9049, which passed the House in the first session of this Congress. The new subsection (i) provides that section 503 (c) (1) will not apply to a loan made by a trust described in section 401 (a) to the employer (or to a renewal or continuation of such loan) if the loan bears a reasonable rate of interest and if:

(1) The employer is prohibited (at the time of the making or renewal) by any law of the United States or regulation thereunder from directly or indirectly pledging, as security for such a loan, a particular class or classes of his assets the value of which (at such time) represents more than one-half of the value of all his assets;

(2) The making or renewal of the loan is approved in writing, by a trustee who is independent of the employer, as an investment which is consistent with the exempt purposes of the trust (and no other such trustee had previously refused to give such written approval); and

(3) Immediately following such making or renewal, the aggregate amount loaned by the trust to the employer, without the receipt of adequate security, does not exceed 25 percent of the value of all the assets of the trust.

The House recedes.

Amendment No. 80: Under existing law, exempt organizations subject to the unrelated business income tax must include in their gross income derived from an unrelated trade or business a percentage of the rentals derived from business leases of their rental property which is subject to an indebtedness. An exception provides that no lease shall be considered a business lease if it is entered into primarily for purposes which are substantially related (other than the need for income) to the exercise or performance of the functions which constitute the basis for the organization's exemption. In discussing the scope of this exception, the Senate Finance Committee report on the Revenue Act of 1950 said:

> "Related" is defined in a similar fashion as in the case of a related trade or business and is, for example, intended to exclude from the application of this tax leases by tax-exempt hospitals of part of the hospitals to doctors' associations to use as clinics. It is believed that leases of this type are entered into primarily to further the purpose of the exempt organization rather than to gain special benefits from tax exemption.

The Senate amendment added a section providing that a lease to a medical clinic by a scientific organization engaged in medical research

of premises adjoining those occupied by such scientific organization is a lease primarily entered into for a purpose related to the organization's exempt purpose, if the scientific organization utilizes the medical clinic for medical-research purposes by referring to the clinic's case histories and by using the donated services of clinic doctors. The report of the Senate Finance Committee indicates that the specific problem presented to the committee was that of a medical-research foundation which leases a substantial portion of the building which it owns, and in which it is located, to a clinic of doctors.

The Senate amendment is stricken under the conference agreement. The conferees believe it is a question of fact to determine whether the activities of the doctors' clinic were substantially related to the exempt purposes of the foundation. If it can be established from the facts that the activities of the doctors' clinic were relevant to the activities of the research foundation, existing law would carry out the purposes for which the amendment was designed and legislation would not be necessary. It was for this reason that the amendment was stricken.

The Senate recedes.

Licensed personal finance companies and lending companies

Amendment No. 82: The Senate amendment added a new section to the House bill which would have amended section 542 (c) (6) (relating to the exception of certain licensed personal finance companies from the term "personal holding companies") and section 542 (c) (7) (relating to the exception from such term of certain lending companies in small loan business directly regulated under State law). In addition to the corporations excepted by existing paragraphs (6) and (7) the amendment would have excepted from the term "personal holding company" a corporation 80 percent or more of whose gross income is interest received from loans made to the wholly owned licensed personal finance companies described in paragraph (6) or lending companies described in paragraphs (7) or which is interest otherwise described in such paragraphs.

The Senate recedes.

Rate of percentage depletion for certain gold mined in the United States

Amendment No. 90: This amendment added a new section to the House bill amending section 613 (b) (2) (B) of the 1954 Code so as to provide a 23 percent depletion rate in the case of gold mined from deposits in the United States, but only where the principal mineral product of the taxpayer was gold ore. The amendment was to apply to taxable years beginning after December 31, 1957.

The Senate recedes.

Definition of property for purposes of the depletion allowance

Amendment No. 94: Section 32 of the House bill amended section 614 of the 1954 Code to provide, in effect, that any taxpayer could treat any mineral property as if section 614 of the 1954 Code had not been enacted and as if the 1939 Code rules pertaining to the definition of property continued to apply. Senate amendment 94 limits the application of section 32 of the House bill to operating mineral interests in the case of oil and gas wells. The amendment further provides a new set of rules which are applicable to operating mineral interests except in the case of oil and gas wells and to all nonoperating mineral interests.

These new rules for operating mineral interests except in the case of oil and gas wells are applicable to taxable years beginning after December 31, 1957, except that for any operating unit, the taxpayer may elect to apply the new rules starting with the first 1954 Code year for which assessment of a deficiency is not prevented by any law or rule of law on the date of enactment of the Technical Amendments Act of 1958. The new rules for nonoperating mineral interests are applicable to taxable years beginning after December 31, 1957, except that the taxpayer may elect to apply such new rules with respect to taxable years beginning before January 1, 1958, to which the 1954 Code is applicable.

The new rules applicable to operating mineral interests except in the case of oil and gas wells provide that a taxpayer may make any number of aggregations within an operating unit so long as each aggregation contains all of the mineral interests that comprise a complete mine or mines. Any mineral interest which subsequently becomes a part of an aggregated mine must also be included in such aggregation. Such new rules further provide that where a single mineral deposit representing a single mineral interest is being developed or operated by means of two or more mines, such single mineral interest may be treated as more than one property. For purposes of the amendment, the term "mine" includes a quarry, pit, Frasch-process sulfur mine, and natural brine mine. The number of Frasch-process sulfur wells or natural brine wells which constitute a mine is to be determined upon the basis of the facts and circumstances of the particular case.

Section 614 of existing law provides that the election to aggregate operating mineral interests is to be made for the taxable year of the first exploration expenditure. The amendment amends section 614 to provide that, in the case of mines, the taxpayer may wait until the time of his first development expenditure to elect to aggregate operating mineral interests. The amendment provides, however, for a recomputation of tax for a prior taxable year or years as though the operating mineral interests had been aggregated at the time of the first exploration expenditure and for a recovery of any tax saving disclosed by such recomputation. It is intended that all items affecting such recomputation, such as exploration expenditures and ad valorem taxes previously deducted with respect to the separate mineral interests aggregated, be taken into account.

In the case of nonoperating mineral interests, section 614 of existing law provides that the Secretary or his delegate may permit aggregation, but only if the nonoperating mineral interests are contiguous and if a showing is made that undue hardship will result to the taxpayer unless aggregation is permitted. The amendment provides that the Secretary or his delegate shall permit the aggregation of nonoperating mineral interests if such interests are adjacent (in reasonably close proximity to each other) rather than contiguous provided that the taxpayer makes a showing that a principal purpose of the proposed aggregation is not the avoidance of tax.

The House recedes with a clerical amendment.

Treatment of dividends of regulated investment companies whose assets consist mainly of State and local obligations

Amendment No. 96: This amendment added a new section to the House bill amending subchapter M of chapter 1 of the 1954 Code to permit a regulated investment company, the bulk of whose assets is

invested in State or local securities, to pass on the tax-free interest it receives from such securities to its shareholders in the form of exempt-interest dividends. This treatment is to be available only where 90 percent of the value of the assets of the regulated investment company represents cash and cash items and obligations of State and local governments the interest on which is excludable from gross income under section 103 (a) (1) of the 1954 Code. Also for a regulated investment company to qualify for this tax treatment the amount of interest excludable for the taxable year under section 103 (a) (1) must exceed 95 percent of such company's gross income (including such interest as gross income, and excluding gains from the sale or other disposition of capital assets). In other respects, the requirements which must be met by one of these companies are essentially the same as are required of regulated investment companies generally. One of these companies must distribute 90 percent of the investment company income to qualify for the pass-through treatment, and the shareholders must be informed in writing not later than 30 days after the close of the regulated investment company's taxable year of the amount of tax-exempt interest they are deemed to have received. Under the amendment, this provision would be effective with respect to taxable years of regulated investment companies beginning after the date of the enactment of the bill.

The Senate recedes.

Transactions in regulated investment company shares around time of distributing capital-gain dividends or exempt-interest dividends

Amendment No. 100: The House bill amended section 852 (b) of the 1954 Code (relating to taxation of regulated investment companies and their shareholders) to provide that where a shareholder of a regulated investment company is required, with respect to any share, to treat any amount as a long-term capital gain under subparagraph (B) or (D) of section 852 (b) (3) of such code, and where such share is held by the taxpayer for less than 31 days, then any loss on the sale or exchange of such share shall (to the extent of the amount so treated as a long-term capital gain) be treated as loss from the sale or exchange of a capital asset held for more than 6 months. The Senate amendment incorporates this provision, but adds a similar rule with respect to stock in regulated investment companies specializing in investments in tax-exempt State and local obligations. (See amendment No. 96.) Under Senate amendment No. 100, where stock in such a company is held for not more than 30 days and in that period an exempt-interest dividend becomes payable, then any loss on the sale or exchange of the stock will not be recognized to the extent of the amount of the exempt-interest dividend excludable from the taxpayer's gross income under section 103 (a) (1) of the 1954 Code.

The Senate recedes.

Special method of taxation for real-estate investment trusts

Amendment No. 103: This amendment added a new section to the bill. The new section added at the end of subchapter M of chapter 1 of the 1954 Code (relating to regulated investment companies) a new part II dealing with real-estate investment trusts. Under the new part II, real-estate investment trusts would have qualified for tax treatment similar to that now available to regulated investment companies.

The Senate recedes.

Carryback and carryover of foreign tax credit

Amendment No. 109: The House bill provides for the carryback and carryover of the foreign tax credit allowed by section 901 of the 1954 Code. The House bill adds a new subsection (c) to section 904 of the 1954 Code (relating to the limitation on the foreign tax credit) to provide that any excess of the taxes paid or accrued to any foreign country (or possession of the United States) for any taxable year beginning after December 31, 1956, over the amount allowable as a credit under the per-country limitation of section 904 may be carried back to the 2 preceding taxable years and then carried forward to the 5 succeeding taxable years. The bill does not, however, allow a carryback to any taxable year beginning before January 1, 1957. The House bill also adds a new subsection (g) to section 6611 of the 1954 Code (relating to interest on overpayments) so as to restrict the interest on an overpayment resulting from a carryback under new section 904 (c) of tax paid or accrued to a foreign country or possession of the United States. The Senate amendment eliminated these amendments made by the House bill. Under the conference agreement, the provisions of the House bill are adopted, with changes in the effective dates.

Basis of property acquired by gift

Amendment No. 110: The Senate amendment adds a new section to the House bill which would amend section 1015 of the 1954 Code (relating to basis of property acquired by gifts and transfers in trust) by adding a new subsection (d) thereto. Subsection (d) (1) (A) will increase the basis of property acquired by gift on or after the date of enactment of the bill by the amount of gift tax paid under chapter 12 of the 1954 Code in connection with the making of the gift. However, any increase in basis under this subsection cannot increase the basis of the property above the fair market value of the property at the time the gift is made. Subsection (d) (1) (B) will increase the basis of property acquired by gift before the date of enactment of the bill by the amount of the gift tax paid under chapter 12 of the 1954 Code or the corresponding provisions of prior law in connection with the making of the gift, provided the property has not been sold, exchanged, or otherwise disposed of before that date. However, any such increase in basis under this subsection cannot exceed an amount equal to the amount by which the fair market value of the property at the time of the gift exceeded the basis of the property in the hands of the donor at the time of the gift.

The House recedes.

Condemnation of real property held for productive use in trade or business or for investment

Amendment No. 113: This amendment added a new section to the bill which would amend sections 1033 (involuntary conversions) and 1034 (sale of residence) of the 1954 Code.

Under the existing provisions of section 1033, in order for there to be nonrecognition of gain on an involuntary conversion of property, the property must be converted into property which is similar or related in service or use to the converted property (or, within a prescribed period of time, replaced either with such similar property or with stock resulting in the acquisition of control of a corporation owning such similar property).

The new section would amend section 1033 of the 1954 Code to provide an additional rule in cases where real property (not including stock in trade or other property held primarily for sale) held for productive use in trade or business or for investment is compulsorily or involuntarily converted as a result of its seizure, requisition, or condemnation, or threat or imminence thereof. In such cases the nonrecognition of gain provided for in section 1033 will apply if the property is converted into (or, within the prescribed period of time, replaced by) property of a like kind to be held either for productive use in trade or business or for investment. This additional rule does not apply to the purchase of stock in the acquisition of control of a corporation described in section 1033 (a) (3) (A). The provision applies only if the disposition of the converted property occurs after December 31, 1957.

The new section would amend section 1034 (i) of the 1954 Code to give taxpayers whose personal residences are involuntarily converted and replaced an option to come under the involuntary conversion provisions of section 1033 or under the rules relating to sale of personal residences contained in section 1034.

The House recedes with a clerical amendment.

Casualty losses sustained upon certain insured property

Amendment No. 117: This amendment adds a new section to the bill which amends section 1231 (a) of the 1954 Code (relating to property used in the trade or business and involuntary conversions) by adding at the end thereof a new sentence. The new sentence provides that section 1231 (a) is not to apply, in the case of any property used in the trade or business (or in the case of any capital asset held for more than 6 months and held for the production of income), to any loss arising from casualty or theft in respect of which the taxpayer is not compensated for by insurance in any amount. The effect of this provision is to treat such losses as ordinary losses, and not to offset them against gains which might otherwise be treated as capital gains. The provision is to apply to taxable years beginning after December 31, 1957.

The House recedes with a clerical amendment.

Bonds issued at discount

Amendment No. 119: Under section 1232 (a) (2) (A) of the 1954 Code, in the case of the sale or exchange of bonds or other evidences of indebtedness which are issued with an "original issue discount," any gain realized is to be treated as ordinary income to the extent that it does not exceed an amount which bears the same ratio to the "original issue discount" as the number of complete months which the bond or other evidence of indebtedness was held by the taxpayer bears to the number of complete months from the date of original issue to the date of maturity.

The House bill amended this provision to provide that any gain realized is to be treated as ordinary income, to the extent that it does not exceed the "original issue discount." Under the House bill, this new rule would have applied for taxable years ending after November 7, 1956, but only with respect to dispositions after that date.

Under the Senate amendment the new rule contained in the House bill will not be applied if at the time of the original issue there was no intention to call the bond or other evidence of indebtedness. In such

a case, the rule contained in existing law would continue to apply. Under the Senate amendment, the new provision will apply to taxable years ending after December 31, 1957, but only with respect to dispositions after that date.

The House recedes.

Short sales

Amendment No. 125: The House bill added a fourth paragraph to section 1233 (e) of the 1954 Code (relating to gains and losses from short sales) to provide that, in the case of a dealer in securities who sells a security short and closes such sale more than 20 days later, the holding period of substantially identical property which he has held in his investment portfolio for less than 6 months is to be considered to begin on the date of the closing of the short sale, or the date on which he disposes of the substantially identical property, whichever occurs first. Under the House bill the amendment was to apply to short sales made after October 24, 1956.

The Senate amendment revises this provision so as to restrict its application to stock, bonds or other evidences of indebtedness convertible into stock, and evidences of an interest in (or right to subscribe to or purchase) stock, or bonds or other evidences of indebtedness convertible into stock. Under the Senate amendment, this provision applies to short sales made after December 31, 1957.

The House recedes.

Sale or exchange of patents

Amendment No. 130: Section 1235 of the 1954 Code provides that the sale of a patent by the inventor, or certain other persons, generally is to receive capital-gains treatment. This capital-gains treatment is not available, however, where the patent is sold to certain specified related persons. The rules provided in section 267 (b) of the 1954 Code are generally followed in determining what constitutes a related person for purposes of this provision. These rules use a 50-percent test in determining relationship where a corporation is involved.

Under the House bill this provision was amended to provide that the capital-gains treatment provided by section 1235 would not be available where the person selling patent rights owns 25 percent or more of the stock of the purchasing corporation (instead of where he owns 50 percent or more, as is provided by existing law). The Senate amendment restored the 50-percent test of existing law.

The Senate recedes.

Amendment No. 134: This amendment adds a new provision not appearing in the House bill setting forth three special rules with respect to taxation of small-business investment companies operating under the Small Business Investment Act of 1958. The amendment adds new sections 1242 and 1243 at the end of part IV of subchapter P of chapter 1 of the Internal Revenue Code of 1954.

The new section 1242 provides that if a loss is on stock of such a company and such loss would otherwise be considered as a loss from the sale or exchange of a capital asset, then such loss shall be treated as a loss from the sale or exchange of property which is not a capital asset. For purposes of section 172 of the 1954 Code (relating to the net operating loss deduction), the loss is considered as a loss attributable to a trade or business.

The new section 1243 provides that if a small-business investment company incurs a loss on convertible debentures (including stock received pursuant to the conversion privilege) acquired pursuant to section 304 of the Small Business Investment Act of 1958 it is to be treated as an ordinary loss where it would otherwise be treated as a loss on the sale or exchange of a capital asset.

The amendment also modifies section 243 of the code allowing in the case of a small-business investment company operating under the Small Business Investment Act of 1958 a 100-percent dividend-received deduction (rather than the 85-percent deduction allowed corporations generally) with respect to dividends received from taxable domestic corporations.

The House recedes with a clerical amendment.

Amounts received as damages for injuries under the antitrust laws

Amendment No. 135: This amendment adds a new section which provides that if an amount representing damages is received or accrued by a taxpayer as a result of an award in, or settlement of, a civil action brought under the provisions of section 4 of the Clayton Act for injuries sustained by the taxpayer under the antitrust laws, then the tax attributable to the inclusion of such amount in gross income in the taxable year of receipt or accrual shall not exceed the aggregate of the increases in tax which would have resulted had such amount been received ratably over the period beginning with the first month in which the injuries were sustained and ending with the month in which such amount is received or accrued.

The House recedes with an amendment changing the period over which the amount received by the taxpayer is to be spread to the period during which the injuries were sustained by the taxpayer.

Mitigation of effect of limitations

Amendment No. 137: This amendment adds a new paragraph to section 1312 of the 1954 Code to provide for an adjustment under section 1311 in a case in which a determination (as defined in sec. 1313 (a)) allows or disallows a deduction (including a credit) in computing the taxable income (or, as the case may be, net income, normal tax net income, or surtax net income) of a corporation, and a correlative deduction or credit has been erroneously allowed, omitted, or disallowed, as the case may be, in respect of a related taxpayer described in section 1313 (c) (7).

The House recedes.

Computation of tax where taxpayer restores substantial amount held under claim of right

Amendment No. 142: Under section 1341 of the 1954 Code, if a taxpayer must restore a substantial amount, which had previously been included in income under a claim of right, his tax for the year of restoration is computed on the basis of allowing a deduction for the restoration or alternatively of computing the decrease in tax for the year of inclusion as if the inclusion had not been effected and reducing the current year's tax by that decrease, whichever computation results in the lesser tax. Existing law does not make it clear, if the alternative computation is followed, that the amount of the restoration is not to be taken into account, for example, in computing a net operating loss for the year of restoration. The House bill provides that, if the

alternative method of computation is followed, the amount of the restoration is not to be taken into account for any purpose except such computation.

The Senate amendment makes three changes. First, an omission of the 1954 Code is remedied, by insuring that in computing the decrease in tax under the alternative method the World War II excess profits tax provisions will be taken into account. Secondly, although inventory items, etc., are generally excepted from the operation of section 1341, refunds or repayments made by regulated public utilities, required to be made by the regulatory body, do not come within the exception. The Senate amendment extends this treatment to refunds or repayments made by order of court or in settlement of litigation, or under the threat or imminence of litigation. Thirdly, the Senate amendment provides for the application of section 1341 to repayments, made pursuant to price redetermination provisions contained in subcontracts, to which section 1481 does not apply solely because the repayment involved is not made to the United States or an agency thereof.

The House recedes.

Mitigation of effect of price redeterminations of subcontracts subject to renegotiation

Amendment No. 146: The Senate amendment adds a new section 1482 to the 1954 Code, relating to the tax treatment of payments made because of price redeterminations under subcontracts subject to statutory renegotiation. The amendment would fill a gap which exists under present law because of the limited application of section 1481, which provides relief to taxpayers whose prime contracts with the United States are renegotiated. Frequently, however, subcontracts under such contracts are subject to price redeterminations, and distortion because of tax rate changes results when a repayment is made as a result of a redetermination. The amendment provides that where a payment is made because of a price redetermination the tax of both payor and payee shall be recomputed, for the taxable year in which the original payment of price under the subcontract was made, as if the original payment had not been made to the extent that payment is returned as a result of the price redetermination. The resulting overpayment or deficiency, as the case may be, would, however, be treated as an overpayment or deficiency for the taxable year in which payment is made pursuant to the price redetermination. The amendment will apply only to subcontracts subject to statutory renegotiation, and only to the extent section 1481 does not apply. Only subcontracts entered into after December 31, 1957, will be covered by the amendment.

The House recedes with a clerical amendment.

Revocation of election permitting certain proprietorships and partnerships to be taxed as corporations

Amendments Nos. 148 and 161: Section 1361 of the 1954 Code permits certain unincorporated business enterprises to elect to be treated for tax purposes as corporations. The House bill repealed section 1361 and section 1504 (b) (7) (relating to definition of includible corporation), effective with respect to taxable years beginning after December 31, 1957. The Senate amendment deletes this provision.

The House bill provided that a statement of election to be taxed as a corporation under section 1361 filed in accordance with regulations prescribed by the Secretary of the Treasury or his delegate shall be treated as a valid election, but that the election may be revoked within a prescribed period. The House bill also tolled the statute of limitations on assessments of deficiencies and credits or refunds of overpayments attributable to an enterprise which has made an election under section 1361. The Senate amendment makes these provisions inapplicable to any statement of election which has been withdrawn with the permission of the Secretary or his delegate before the date of enactment of the bill.

The House recedes.

Election of certain small business corporations

Amendment No. 163: This amendment adds a new subchapter S (consisting of secs. 1371–1377) to the code. Subchapter S is applicable to a "small business corporation" which elects not to be subject to the income tax imposed by chapter 1 of the code and to the shareholders of such corporation. Where the tax treatment provided by this subchapter is elected, the shareholders include in their own income for tax purposes the current taxable income of the corporation, both the portion which is distributed and that which is not. Neither type of income in this case is eligible for a dividend received credit or exclusion. Generally, this income is treated as ordinary income to the shareholder without the retention of any special characteristics it might have had in the hands of the corporation. However, in the case of long-term capital gains the character carries over to the shareholder level.

If a shareholder has been taxed on corporate earnings which were not at that time distributed, and the corporation in a subsequent year distributes these earnings to such shareholder, no further tax is required from the shareholder at that time with respect to such earnings. The net operating losses of the small business corporation are passed through currently to the shareholder. There is no carryover or carryback at the corporate level of operating losses to or from a year with respect to which this special treatment has been elected. At the individual level these corporate losses are to be treated in the same manner as any loss which the individual might have from a proprietorship.

Where this special treatment has been elected the basis of a shareholder's stock is increased for any of the corporate earnings taxed to him which are not then distributed, although this basis is subsequently reduced if these taxpaid corporate earnings are distributed. The basis of the stock of a shareholder is also reduced for any corporate losses which are passed through to him. The losses that he may take, however, are limited to the basis he has for the stock.

The right to elect the treatment provided under this new subchapter is limited to domestic corporations which are not eligible to file a consolidated return with any other corporation. Also, they must not have more than 10 shareholders, their shareholders must all be individuals (or an estate), no nonresident aliens may be shareholders, and the corporation may not have more than 1 class of stock.

An election may be made to apply the tax treatment provided by this new subchapter only if all of the shareholders consent to this

election. For this purpose the shareholders are those of record as of the first day of the taxable year in question, or if the election is made after that time, shareholders of record when the election is made. An election to come under this provision must be made in a 2-month interval, either in the first month before the beginning of the taxable year for which the election is to be made or in the first month of that year. (A longer period of time, up to 90 days after the date of enactment of this bill, is allowed for the first taxable year beginning after December 31, 1957.) Once this provision is elected it is effective not only for the taxable year but also for all subsequent years although this election may be terminated.

The election provided by subchapter S can be terminated in any one of several ways. However, if an election has been terminated or revoked, the corporation (or any successor) is not to be eligible to elect this treatment until its fifth year after the beginning of the year in which the termination or revocation is effective. The Secretary or his delegate is given the authority to make exceptions to this limitation, however.

The House recedes with a clerical amendment.

Income taxes paid under contract

Amendment No. 208: The House bill provided that where a lease was entered into before January 1, 1952, between corporations, and under the lease, the lessee is obligated to pay or reimburse the lessor for any part of the tax imposed by chapter 1 of the 1939 Code with respect to the rentals derived under the lease, gross income of the lessor includes the rentals and any tax imposed by such chapter with respect to such rentals. It further provided that the lessee shall be allowed to deduct the amount of the rentals, the tax on such rentals, and the tax on such tax. The Senate amendment provides that where a contract (including a lease) was entered into before January 1, 1952, between corporations, and under the contract, one party (the payor) is obligated to pay or reimburse another party (the payee) for any part of the tax imposed by chapter 1 of the 1939 Code with respect to the income derived under the contract, gross income of the payee includes the income so derived and any tax imposed by such chapter with respect to such income. The Senate amendment also provides that the payor will not be able to deduct any payment or reimbursement of Federal income tax imposed which, without the benefit of this provision, would have to be capitalized rather than deducted. The Senate amendment applies to a contract to which the payor and the payee are parties. It has no application to that part of a contract which provides for payment of Federal income taxes on income which is not derived under the contract by the payee.

The House recedes.

Certain recapitalizations of railroad corporations

Amendment No. 211: This amendment would have added a new subsection (c) to section 723 of the 1939 Code (relating to the computation of equity invested capital in special cases under the World War II excess-profits tax).

Section 760 of the 1939 Code (relating to the computation of equity invested capital in connection with certain exchanges) provided, in general, that where the assets of a corporation were transferred to another corporation in a tax-free reorganization, the equity invested

capital of the old corporation was carried over to the new corporation for purposes of determining its excess-profits credit. It has been held, however, that section 760 is inapplicable where a railroad corporation was reorganized by means of a recapitalization, with the result that the equity invested capital of such a corporation may be reduced.

The Senate amendment provided that where a railroad corporation has been recapitalized after December 31, 1938, in a bankruptcy or receivership proceeding, the equity invested capital of the corporation, at the election of the taxpayer, will be determined as if the assets of the corporation had been transferred to a new corporation in a transaction to which section 760 of the 1939 Code applied.

The Senate recedes. In striking this amendment it was the understanding of the managers on the part of the House that this action taken is without prejudice as to the merits of the Senate amendment.

Bequests, etc., to surviving spouse

Amendment No. 212: The Senate amendment adds a new section to the House bill which would amend section 812 (e) (1) (F) of the 1939 Code (relating to bequests, etc., to surviving spouse in trust with power of appointment).

Section 812 (e) of the 1939 Code allows as a deduction from the gross estate certain property interests passing to the decedent's surviving spouse. With several exceptions, no deduction is allowable under that section in the case of terminable interests. Paragraph (1) (F) of subsection (e) provides an exception to this rule in the case of certain terminable interests provided a number of conditions are met. Two important conditions are (1) that the transfer be in trust, and (2) that the surviving spouse be given all the income from the corpus of the trust during her life and a complete power to appoint the entire remainder of the corpus of the trust to herself or to her estate. These two conditions were relaxed in section 2056 (b) (5) of the 1954 Code so that (1) the transfer need not be in trust and (2) the rights to the income and corpus of the surviving spouse need extend only to a portion of the transferred property (in which case that portion would qualify for the deduction). Under the Senate amendment, the more lenient rules contained in the 1954 Code are made applicable with respect to decedents dying after April 1, 1948, and before August 17, 1954, which is substantially the period covered by the 1939 Code. The amendment further provides that if refund or credit of any overpayment resulting from the application of such amendment was prevented on the date of the enactment of the bill, or at any time within 1 year from such date by the operation of any law or rule of law (other than those relating to closing agreements and compromises), refund or credit of such overpayment may, nevertheless, be made or allowed if claim therefor is filed within 1 year after the date of enactment of the bill. No interest shall be allowed or paid on any overpayment resulting from the application of this amendment.

The House recedes with a clerical amendment.

Basis of property acquired in certain railroad reorganizations

Amendment No. 218: The House bill amends section 372 of the 1954 Code (relating to basis in connection with certain receivership and bankruptcy proceedings) by adding thereto a new subsection (b)

which provides for a mandatory adjustment to the basis of certain retirement-straight line property acquired in certain reorganizations for depreciation sustained before March 1, 1913. The amendment of section 372 applies to taxable years beginning after December 31, 1955.

The Senate amendment provides that the amendment of section 372 is not to apply to any taxpayer if, before the date of enactment of the bill, there has been a determination, for any taxable year, of the adjusted basis of the taxpayer's retirement-straight line property of the type described in new section 372 (b), by the Tax Court or other court of competent jurisdiction, in any proceeding in which the court's decision became final after December 31, 1955, and which established the taxpayer's right to use the straight-line depreciation method with respect to such property for any taxable year.

The House recedes.

Extension for filing claims for refunds relating to educational expenses

Amendment No. 219: This amendment which adds a new section to the House bill, extends the period for filing claims for refund or credit relating to educational expenses paid or incurred for the taxpayer's first taxable year beginning after December 31, 1953, and ending after August 16, 1954, provided such claims are not prevented by operation of section 7121 or 7122 of the Internal Revenue Code of 1954 (relating to closing agreements and compromises).

The House recedes with a clerical amendment.

Deductibility of accrued vacation pay

Amendment No. 220: The Senate amendments provide that a deduction under section 162 of the 1954 Code on account of accrued vacation pay shall not be denied for any taxable year ending before January 1, 1961, solely by reason of the fact that during the taxable year (1) the liability for the vacation pay to a specific person has not been clearly established, or (2) the amount of the liability to each individual is not capable of computation with reasonable accuracy, provided the employee has performed certain qualifying service.

The House recedes with a clerical amendment.

Moving expenses of employees

Amendment No. 221: This amendment, for which there is no corresponding provision in the House bill, would have provided an exclusion from gross income of amounts received after December 31, 1949, and before enactment of this bill as reimbursement for moving expenses of new employees of certain corporations formed exclusively to operate laboratories for the Atomic Energy Commission. The exclusion would have been limited to the actual moving expenses paid or incurred by the employee, and it would have been denied to any employee who was advised, at the time of his employment, by an authorized representative of the corporation, that such reimbursement would be includible in gross income.

The Senate recedes.

Extension of time for making refund of overpayments of income tax resulting from erroneous inclusion of certain compensation for injuries or sickness

Amendment No. 222: This amendment adds a new section to the House bill which extends the time within which refunds may be made

for overpayments of income tax resulting from the erroneous inclusion in gross income of certain compensation for injuries or sickness, if a claim for credit or refund of such overpayment was filed after December 31, 1951, and within the time prescribed by law.

The House recedes.

Amounts received by certain motor carriers in settlement of claims against the United States

Amendment No. 223: This amendment provides that amounts received in settlement of any claim against the United States arising out of the "taking" by the United States under Executive Order 9462 of possession or control of any motor carrier transportation system, shall, at the election of the taxpayer, be deemed to be income received or accrued in the taxable years during which such motor carrier system was in the possession or control of the United States. The Senate amendment also provides that the period for assessing any deficiency resulting from the application of this amendment shall not expire prior to 1 year after the date on which the taxpayer makes his election, and that no interest shall be assessed or collected for any period prior to March 15, 1953, with respect to that part of any deficiency which is attributable to the inclusion of income by reason of the application of this amendment.

The House recedes with a clerical amendment.

Reasonable cause for failure to file return

Amendment No. 224: This amendment provides a new application of the second sentence of section 106 of the 1939 Code. That section limits the surtax of individuals to 30 percent on certain payments received from the United States, and subsection (b) extends this treatment to certain payments for the construction of military installations or facilities. The second sentence of section 106, for purposes of applying section 291 (a) of the 1939 Code (relating to additions to tax for failure to file a return) provides that, in a case to which section 106 (b) applies, reasonable cause for failure to file a return shall include the filing of a timely incomplete return where the taxpayer was led to believe that no tax was due on amounts received under a settlement with the United States. For taxable years ending after December 31, 1942, this amendment will apply the second sentence of section 106 in any case where an amount is received in settlement of a claim arising under the same contract as a claim the settlement of which results in the receipt in a subsequent taxable year of any amount to which section 106 (b) applies.

The House recedes with a clerical amendment.

Floor stock refunds applicable to importers of electrical light bulbs

Amendment No. 225: The Excise Tax Reduction Act of 1954 amended the 1939 Code to provide a floor stock refund of tax with respect to electric light bulbs held by dealers on the tax reduction date. Such refund (or credit) was to be made (if certain requirements were met) to the manufacturer or producer of the light bulbs.

Senate amendment No. 225 would amend section 1657 of the 1939 Code to allow refunds or credits to be made to importers of light bulbs as well as the manufacturers and producers.

The Senate recedes.

Earnings and profits of regulated investment companies

Amendment No. 226. Under the provisions of section 362 (a) of the Internal Revenue Code of 1939, it was specifically provided that the current earnings and profits of any regulated investment company (but not its accumulated earnings and profits), whether or not it qualified for the conduit treatment of its income for the taxable year, would not be reduced by any amount which was not allowable as a deduction in computing its taxable income for the taxable year. Therefore, nondeductible losses, for example, would not reduce its current earnings and profits. The principle was inadvertently eliminated in the 1954 Code.

Senate amendment No. 226 reintroduced this principle to the regulated investment company provisions of the code for taxable years of a regulated investment company beginning after December 31, 1957.

The House receded with an amendment changing the effective date to taxable years beginning on or after March 1, 1958.

Application of estate and gift taxes to certain residents of possessions

Amendment No. 227: This Senate amendment added to the Internal Revenue Code of 1954 provisions relating to the imposition of estate and gift taxes on citizens of the United States residing in the possessions.

Under the provisions of this amendment United States citizens who are residents of the possessions and who acquired their United States citizenship completely independently of their connections with the possessions will have their estates taxed in the same manner as estates of citizens of the United States are taxed. The estates of all other residents of the possessions, regardless of citizenship, will be taxed in the same manner as the estates of residents not citizens. The same line of demarkation is drawn in these provisions in taxing the making of gifts by residents of possessions. For example, a United States citizen who moves from the United States to one of the possessions will continue to be treated for estate and gift tax purposes in the same manner in which he would have been treated if he had remained in the United States. The Senate amendment also changes existing law so that any taxes paid to a possession will be treated as taxes paid to a foreign country for which credit will be allowed under section 2014 of the Internal Revenue Code of 1954 rather than as a credit under section 2011. The Senate amendment applies to estates of decedents dying after the effective date of this bill, and to gifts made after the effective date of this bill.

The House recedes with a modification that these provisions shall apply only to residents of possessions who acquired their United States citizenship completely independently of their connections with the possessions. With respect to all other residents of possessions, regardless of citizenship, existing law will continue to be applicable. It is recognized that with respect to these other residents of possessions a problem may still remain. However, it was believed that additional time is required for study in this area. For that reason no action is taken at this time with respect to these other residents of possessions.

Credit for United Kingdom tax paid on royalties

Amendment No. 228: This amendment, for which there is no corresponding provision in the House bill, adds a new section to the

bill. This section amends section 131 (e) of the 1939 Code and section 905 (b) of the 1954 Code, both of which relate to proof of the foreign tax credit, to provide that, for purposes of the foreign tax credit, the recipient of any royalty or other amount paid or accrued as consideration for the use of, or for the privilege of using, copyrights, patents, designs, secret processes and formulas, trademarks, and other like property, and derived from sources within the United Kingdom of Great Britain and Northern Ireland, shall be deemed to have paid or accrued any income, war profits, and excess profits taxes paid or accrued to the United Kingdom with respect to such royalty or other amount (including the amount by which the payor's United Kingdom tax was increased by inability to deduct such royalty or other amount) if such recipient elects to include in its income the amount of such United Kingdom tax. The amendment of the 1939 Code will apply for all taxable years beginning on or after January 1, 1950, to which section 131 of the 1939 Code applies; and the amendment of the 1954 Code will apply with respect to all taxable years beginning after December 31, 1953, and ending after August 16, 1954.

Under this amendment the recipient of a patent or copyright royalty derived from sources within the United Kingdom will be entitled to a foreign tax credit for the United Kingdom tax deducted from the royalty payments if he elects to include the amount of such United Kingdom tax in his income.

The House recedes with amendments pursuant to which no interest will be paid or allowed on any overpayment resulting from the application of this provision.

Small Business Tax Revision Act of 1958

Amendment No. 229: This amendment adds a new title II to the House bill, entitled "Small Business Tax Revision Act of 1958." The Senate amendment incorporates the provisions of H. R. 13382 as passed by the House, with several changes, and added one new provision. The House recedes and agrees to the Senate amendment No. 229, with amendments. Except for certain technical, clerical, and conforming amendments, the text of these provisions, as they are proposed to be amended under the accompanying conference report, is the text of the Senate amendment with the following changes:

(a) *No limit on net operating loss carryback.*—The Senate amendment provided that the 2-year net operating loss carryback provision of present law is extended to provide a 3-year carryback. Under the Senate amendment, however, the 3-year carryback is limited so that the loss which may be carried back to this third prior year may not not exceed $50,000 (or $100,000 in the case of a husband and wife filing a joint return). The effect of the conference actions was to eliminate the limitation on the carryback to the third prior year.

(b) *Used property.*—The Senate amendment would have added a provision providing that a taxpayer may apply the rapid methods of depreciation (e. g., the double-rate declining balance and the sum-of-the-years digits method) to $50,000 of certain used property acquired in any year after 1957 ($100,000 in the case of a husband and wife filing a joint return). This was to be available only for tangible personal property having a useful life of 6 years or more. Gain realized on the sale of such property was to be treated as ordinary gain to the extent of depreciation taken under the rapid methods. The effect of the conference action was to eliminate this provision.

One of the provisions of the Senate amendment, which was also in H. R. 13382 as passed by the House, provides ordinary loss treatment for sales and other dispositions of certain small-business stock. Under H. R. 13382 as passed by the House this treatment was limited to stock issued to an individual and an individual was defined as not including a partnership, trust, or estate. Under the amendment, however, this treatment is also available in the case of stock issued to partnerships. The House has accepted this feature of the Senate amendment. It is understood that in the case of partnerships any losses from small-business stock will be passed through to the partners and that the $50,000 or $100,000 limitations will be applied by taking into account their share of any losses on stock disposed of which they had held directly. Also, since to qualify for the ordinary loss treatment the qualifying stock must be held by the individual or partnership to whom issued, loss on stock issued to a partnership which was distributed to a partner before the loss was sustained would not qualify.

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